

The examiner asserts that these groups of claims are related as a combination (Group II) and a subcombination (Group I). Since the combination does not require a valve seat through which fluid flows or a valve element opposite the valve seat as required by the subcombination, the examiner asserts that the claimed combination does not require the particulars of the claimed subcombination. The examiner further asserts that the subcombination has separate utility, such as a vaporizer used as a humidifier.

Applicants respectfully traverse this restriction requirement. As recited in MPEP § 803, a requirement for restriction between patentably distinct inventions is proper if two basic criteria are met:

(A) The inventions must be independent . . . or distinct as claimed . . . ; and (B) There must be a serious burden on the examiner if restriction is required (*Emphasis added.*)

Applicants respectfully submit that a search of the relevant prior art for both the combination and the subcombination would not put a “serious burden” on the Examiner, because a search of either the combination or the subcombination would uncover all of the relevant prior art documents for both the combination and the subcombination. Accordingly, Applicants respectfully request reconsideration and withdrawal of this restriction requirement.

Notwithstanding the above and if the Examiner maintains this restriction requirement, applicants confirm with traversal the provisional election by the undersigned in a telephone conversation on July 23, 2003 with Examiner Richard Bueker of claims 10-17 and 19-26 (Group I) for further prosecution on the merits.

Objection to the Drawings

The examiner has objected to the drawings as failing to comply with 37 CFR 1.84(p)(5) because the drawings do not include the reference numeral **72**, as mentioned as page 10, line 29, and page 11, lines 7, 10, 11, 16 and 18. Applicants propose correcting Figure 3 to include a reference numeral **72** pointing to the box labeled as “PID CONTROL,” as provided in red ink in the proposed corrected drawing of Figure 3 enclosed herewith. Upon approval by the examiner, a formal drawing will be submitted. As discussed above, this correction does not add new matter since reference numeral **72** was originally disclosed in the specification.

Obviousness-Type Double Patenting


Claims 10-17 and 19-26 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, and 24 of U.S. Patent No. 6,224,681, which issued from U.S. Patent Application Ser. No. 08/574,999. The above-reference patent application is related to U.S. Patent No. 6,224,681 and commonly assigned to Applied Materials, Inc., because the present application is a continuation of ser. no. 09/660,208, which was a divisional of ser. no. 08/574,999, from which the '681 patent issued. In view of the Terminal Disclaimer submitted herewith, Applicants respectfully submit that this rejection has been overcome.

Conclusion

In view of the remarks provided above and the enclosed terminal disclaimer, applicants submit that the present application is in condition for allowance. Reconsideration and allowance is respectfully requested.

Respectfully submitted,
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